

REMARKS/ARGUMENTS

The amendment is in response to the Final rejection dated March 16, 2009. Claims 1-65 and 67-96 have been canceled without prejudice, disclaimer and/or in view of the rejections. Claims 66, 97, 100 and 102 have been amended. Claims 66 and 97-103 are pending in this application.

Claim Rejections - 35 USC § 112

On page 2 of the action, Claim 97 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. In particular, the action states that "the negative limitation "not aligned to the inlet opening" is not supported in the originally filed specification and therefore is considered new matter". Also, claims 100 and 101 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. In particular, the action states that "the negative limitation "the biasing element does not include a spring" is not supported in the originally filed specification and therefore is considered new matter".

Additionally, on page 3 of the action, claims 100 and 101 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the action indicates that "Claim 100 discloses that the biasing element is does not include a spring but in claim 101 the biasing element is in a high stress condition in the second position which would be indicative of a spring therefore the claims are contradictory and indefinite." Applicant respectfully traverses this rejection.

The limitations of Claim 97 finds support in the written description, paragraphs [0084] and [0087], and the limitations of claims 100 and 101 finds support in the written description, paragraph [0088]. Thus, it is respectfully submitted that the limitations are not new matter. However, to expedite prosecution, the negative limitations noted above

have been removed. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

Interview Summary (*Claim Rejections - 35 USC § 103*)

Applicant's counsel, David Bailey, thanks and appreciates Examiner Schneider's time and courtesy in the personal interview of September 23, 2009. During the interview, Applicant's counsel explained the regulator device when viewed as a whole along with the cited references. An agreement was reached that the combination of location of the filter relative to the other recited components provided with the automatic closing of the movable cover overcomes the current rejection. Clarification of the structural aspects of the filter location was thus requested. Accordingly, the independent claims 66 and 102 have been amended to provide such clarification.

Independent claims 66 and 102 therefore as amended recites in part:

a filter located within the passageway proximate the exit opening and distal the inlet opening so that fluid must pass through the filter to pass through the exit opening

Applicant respectfully submits that in view of at least the above remarks and amendments, amended independent claims 66 and 102 are patentable over the cited references.

Claims 97-101 and 103 depend from independent claim 66. Since claims 97-101 and 103 depend from independent claim 66 and thus incorporate the features recited in corresponding claim and contain additional limitations that, when considered as a whole are patentably distinguishable over the references of record, claims 97-101 and 103 are believed to be patentable. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Conclusion

In view of the foregoing amendments and remarks, it is respectfully submitted that this application is in condition for allowance or in better condition for appeal. Reconsideration of the application and allowance of the claims are respectfully requested. Also, although the present paper may include a combination of alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding that previously pending claims in this application are not patentable over the cited references. Rather, any alterations and/or characterizations are made to strictly facilitate prosecution of this application. As such, reviewers of this or any parent, child, or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Applicants have submitted amendments and arguments believed to be sufficient to overcome all of the outstanding rejections. Consequently, Applicants have not advanced every argument for the allowability of the claims over the references of record. As such, Applicants do not acquiesce to any of the Examiner's statements or characterizations not specifically traversed. If the Examiner should have any remaining questions or objections, a telephone interview to discuss and resolve these issues is respectfully requested.

Respectfully submitted,

KAUTH, POMEROY, PECK & BAILEY LLP

By 

Patrick Y. Ikehara
Registration No. 42,681
949.852.0000